

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of the 47 CFR Part 97)	
Amateur Radio Service and/or)	
Amendment of the 47 CFR Part 95)	RM-10521
Subpart B Family Radio Service)	
To Permit non-Amateur non-United States)	
Resident Foreign Nationals Access to))	
The 446.0 to the 446.1 MHz Band)	
)	

COMMENTS IN OPPOSITION

To Members of the Honorable Commission:

- 1) *Introduction.* The matter captioned above was brought before the Commission by a petition for rulemaking filed by Dr. Michael Trahos (hereafter referred to as "petitioner") in January 2001. The petition was placed on notice on August 8, 2002. Being placed on notice, comment was solicited on the petition for a period of thirty-days from the date it was placed on notice. As a citizen of the United States of America, the holder of a General Class Amateur Radio Operator License, a telecommunications technician with 23 years experience, a former county E-911 supervisor, and an amateur radio frequency coordinator representing the SouthEastern Repeater Association, Inc. for the past 20 years, who may be potentially affected by the proposals contained in the petition concerned, I wish to file comments in this proceeding.
- 2) *Background.* Petitioner requests that a proceeding be commenced to change rules in Part 97 of the Commission's Rules and/or Part 95 of the Commission's Rules to authorize persons who are permitted in ITU region 1 to operate foreign personal two-way radio equipment authorized, developed, and made available to European consumers under a decision of the Conference of European Postal and Telegraph Administrations (CEPT,) which is similar to an extent to an order by the Commission in 1995 that authorized the Family Radio Service by way of subpart B of Part 95 of the Commission's Rules to be permitted in the United States. Petitioner contends that the rules are unenforceable based upon prior observations he has made of communications activity that is contrary to the Commission's Rules.
- 3) *Discussion.* While my comments may reiterate some points that have obviously been made by other commentators, I do want to include a point that may not have been previously submitted or considered. I present that in the following paragraphs.

- 4) *Unexpected Consequence:* Per attachments to the petition, specifically Attachment F of the petition, Footnote 15, UK Interface Requirement 2009 Private Business Mobile Radio Operating in the license exempt PMR 446 MHz band (Version 1.1), Page 5, Table 2.1: Minimum Equipment Requirements, Additional Technical Information, line item number three (3), "Use of speech privacy measures, including speech inversion is permitted." This is something that is not currently authorized in Part 97 of the Commission's Rules. Should the Commission make or amend Rules in favor of the petitioner, precedent would be set for any subsequent petition and ruling to allow for voice privacy technology to be implemented globally with respect to the Commission's Rules in Part 97 and in Part 95. Given the current and advancing state of negative geo-political and of terrorist events, since petitioner filed in January 2001, such technology that would subsequently become available in the form of relatively inexpensive off-the-shelf consumer two-way radio equipment would apparently be perfectly suited to possible terrorist operations.
- 5) *Additional Discussion:* (1) Any authorization of illegal activity that may be deemed unenforceable is a bad idea that would open the door to justify virtually all manner of ill-conceived petitions. Should the Commission rule in favor of petitioner in this matter, a veritable Pandora's box would be opened, and the Commission would very likely be swamped in this administrative venue.
- 6) *Additional Discussion:* (2) Any international traveler who can afford to purchase or otherwise acquire CEPT authorized consumer communications devices and transport those to the United States will also have the resources to purchase FCC authorized equipment and place it into service upon their arrival. Therefore, any reasoning that current rules/laws are economically burdensome would be invalid.
- 7) *Additional Discussion:* (3) Petitioner claims that he has observed European tourists unknowingly illegally operating their non-FCC-type-accepted equipment inside United States jurisdiction. Ignorance of the law is no excuse. Enforcement should be taking place at the theme parks the petitioner references.
- 8) *Additional Discussion:* (4) References included on the petition list only the ARRL 70cm Band Plan (footnote 20) as a source of information concerning United States amateur radio spectrum policy and usage. The ARRL (American Radio Relay League) is not a frequency coordinator. It is a political organization that represents some of the interests of amateur radio operators in the United States. As such, while appealing to the broadest base of potential consumers, it produces publications for sale in order to support its operations. The ARRL 70cm Band Plan referenced is a watered down composite of what may or may not be in effect in the varied geographical areas of the United States by various recognized amateur radio frequency coordination organizations. And in many cases, it conflicts with detailed and authorized regional spectrum or band planning. Therefore, it's inclusion and use as a basis for reasoning is erroneous and is flawed. At the very least, the reference support for the petition is incomplete.

- 9) *Conclusion:* I do strongly OPPOSE Petitioner's request for the reasons stated above.
An NPRM is not justified in this matter at the present time.

Dated this 23rd day of August, 2002, and Respectfully Submitted to the Commission,

/s/ H. Alex Hedrick, Jr. N8FWL
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